

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

EDWARD C. KELLEY,)	
)	
Plaintiff,)	
v.)	Civil Action No. 07-278 Erie
)	
MARIE T. VEON, et al.,)	
)	
Defendants.)	

MEMORANDUM ORDER

Plaintiff's civil rights complaint [5] was received by the Clerk of Court on October 15, 2007 [1] and was referred to Chief United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates. Plaintiff thereafter failed to effectuate service of the complaint.

On March 25, 2008, Judge Baxter entered an Order [10] directing Plaintiff to show cause, on or before April 14, 2008, as to why he had failed to effectuate service of the complaint in accordance with the Federal Rules of Civil Procedure. The order further directed Plaintiff to effectuate service of the complaint upon each of the named Defendants and file with the Court a certificate of service on or before April 14. Plaintiff was advised that failure to comply with the order would result in the dismissal of his case pursuant to Fed. R. Civ. P. 4(m). Plaintiff failed to comply with this order and, on May 21, 2008, Judge Baxter filed a report and recommendation [14] that Plaintiff's complaint be dismissed.

On May 28, 2008, Plaintiff filed an objection [15] to the Report and Recommendation, stating that he had never received a copy of Judge Baxter's March 25, 2008 order and that his noncompliance with the order was unintentional. In light of

this representation, the Court declined to adopt the Chief Magistrate Judge's Report and Recommendation. Instead, the Court entered a Memorandum Order [16] on June 2, 2008 directing Plaintiff to effectuate service of the complaint upon each of the Defendants named therein on or before June 23, 2008 and further directing Plaintiff to file with the Court a certificate of such service. Plaintiff was specifically advised that his failure to comply with the order within the designated time frame would result in the dismissal of his case.

A review of the docket shows that, as of June 13, 2008, Plaintiff filed a notice of service [18] indicating that, on June 12, 2008, he effectuated service upon the Defendants "by U.S. mail." Unfortunately for Plaintiff, simply mailing a copy of the complaint to the designated Defendants does not constitute proper service under the Federal Rules of Civil Procedure.

Accordingly, this 2nd day of July, 2008, IT IS HEREBY ORDERED that the within complaint be, and hereby is, DISMISSED inasmuch as Plaintiff has failed to comply with this Court's order of June 2, 2008 and the factors set forth in *Poulis v. State Farm Fire and Casualty Co.*, 747 F.2d 863 (3d Cir. 1984) weigh in favor of a dismissal of the complaint.

s/ Sean J. McLaughlin _____
United States District Judge

cm: all parties of record ____